



County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

November 15, 2007

Ted N. Rauh, Program Director
Waste Compliance and Mitigation Program
California Integrated Waste Management Board
1001 I Street
Sacramento, CA 95814

Dear Mr. Rauh:

SUNSHINE CANYON LANDFILL PROPOSED SOLID WASTE FACILITY PERMIT FOR A COMBINED CITY/COUNTY LANDFILL OPERATION

We are responding to your October 19, 2007 letter directed to the Los Angeles County Board of Supervisors and the City of Los Angeles City Council and your October 31, 2007 letter directed to Los Angeles City Mayor, Antonio R. Villaraigosa, and Los Angeles County Chief Executive Officer, William T Fujioka, relating to the California Integrated Waste Management Board's (CIWMB) decision to accept and process a solid waste facilities permit application (SWFP Application) from Browning-Ferris Industries (BFI) to operate a combined Sunshine Canyon Landfill (Sunshine Canyon) in Los Angeles County.

The County's Local Enforcement Agency (LEA), within the County's Department of Public Health, is fully committed to the safe operation of Sunshine Canyon and the protection of the health and welfare of the surrounding community, while cooperating with BFI to enable it to successfully operate the facility. The County LEA and the City LEA are duly certified under the California Integrated Waste Management Act within each respective jurisdiction. Both the County LEA and the City LEA remain in good standing to perform their duties mandated by law. Furthermore, by virtue of their certifications, each LEA holds exclusive jurisdiction to develop, implement, and maintain its respective adopted permitting program, including at Sunshine Canyon. Their complete authority is derived from California Public Resources Code (PRC) Section 43209 of the Act and 14 CCR 18011(16), which provides that "... [a]n LEA is **solely** responsible for carrying out solid waste enforcement in its jurisdiction" [Emphasis added].

The County objects to the CIWMB's decision to assume the role of the local enforcement agencies with regard to the SWFP Application. Although we understand that BFI has recently withdrawn the SWFP Application from the CIWMB's consideration, we are informed that BFI plans to re-submit the SWFP Application in the near future and, for the reasons below, we respectfully ask that it be rejected at that time.

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The County welcomes any technical input that the CIWMB may desire to offer pursuant to PRC Section 43217 to assist in local permitting issues. Yet, absent the mandated due process under PRC Section 43215, and absent the requisite agreements with the County and the City required under PRC Sections 43212.1 and 43310.1, the CIWMB lacks legal authority to process the SWFP Application or to unilaterally issue a SWFP at Sunshine Canyon. In particular, as the facility is specifically included within the City LEA's and the County LEA's enforcement program plans that were approved by the CIWMB, you are without legal authority to act as proposed.

We are currently working with the City to explore the formation and certification of a new LEA under a JPA pursuant to PRC Section 43203(b) and Government Code Sections 6500, et. seq., for the purpose of facilitating the issuance of one single permit for the combined City/County landfill, which would enable more efficient regulation and operation.

As you acknowledge, however, prior to operating a combined City/County landfill, in addition to meeting the City's land-use prerequisites, BFI must meet the conditions of the Replacement Conditional Use Permit 00-194-(5) (RCUP) imposed by the Los Angeles County Board of Supervisors. The following are some key RCUP prerequisites to operate a combined City/County landfill:

Approval from the City of Los Angeles to Proceed to Phase II

Several sections of the RCUP articulate that the combined landfill operation (the "City/County Project") commences with the City's approval of Phase II (as stipulated under the City Land Use Zoning Ordinance 172933, Qualified Conditions of Approval [Q] Section B.2.d). According to the RCUP, Phase II will commence after the City-only landfill has operated for five years and satisfied certain other conditions, and the approvals for Phase II are necessary before any combined operation can take place.

- Under Condition 1.K of the RCUP, the combined landfill operation or the "City/County Project" is clearly defined as "the activities of the combined City/County landfill conducted in either or both the City and County jurisdictions, the ultimate development of which is depicted on Exhibit 'A-2' of this grant and on Exhibit 'E-4B' of the City Ordinance....**and which is generally referred to in the City Ordinance as Phase II and Phase III.** The City/County Project includes the combined City/County landfill, its Ancillary Facilities and activities within the County's jurisdiction as approved by this grant, and the combined City/County landfill, ancillary facilities and activities within the City's jurisdiction as approved by the City Ordinance...." [Emphasis added]
- Under the definition of "County Project" in Condition 1.V of the RCUP, there is further clarification that the "County Project includes activities conducted within the County's jurisdiction **prior to the commencement of the City-approved Phase II.**" [Emphasis added]

- Condition 18 of the RCUP requires BFI to diligently pursue and obtain all approvals necessary to develop and operate the City/County Project as defined in Condition 1.K. In the event that such approvals are not granted, the County Landfill is precluded from combining with the City Landfill and will cease operation when the limits of fill in Exhibit 'A-1' of the RCUP and portions of the "bridge area" authorized by the Director of Public Works, have reached capacity.

Public Works' Approval of a Fill Sequencing Plan for the Combined Landfill

Condition 18 of the RCUP requires prior approval of a fill sequencing plan by the County Director of Public Works for all landfill operations within the County's jurisdiction, including that portion of the City/County Project within the County jurisdiction. The SWFP Application and associated Joint Technical Document (JTD) submitted to the CIWMB includes a fill sequencing plan that has not been approved by the Director of Public Works.

County's Technical Advisory Committee (TAC) Certification of Compliance

Part XII.B of the Implementation and Monitoring Program ensures compliance with the RCUP, and complements the enforcement and monitoring programs administered by the County. BFI is required to obtain from the TAC a certification of compliance with the RCUP prior to development of the City/County Project.

Revenue Allocation Agreement

Condition 64 of the RCUP requires a revenue allocation agreement prior to operating as a City/County Project, and this agreement has not been completed.

Additional RCUP Requirement

The RCUP requires County approval of the Closure and Post-Closure Maintenance Plan. Conditions 1.O and 1.RR defining Closure Plans and Post-Closure Maintenance Plans require plan approval by the TAC to protect public health and safety and the environment. The JTD submitted for the SWFP includes a preliminary closure and post-closure maintenance plan that has not been approved by the County's TAC.

In sum, we will continue to work with the City to certify a new LEA and process a new single permit prior to the time when BFI is authorized to operate a single, combined, facility under the land use approvals issued by the City and County, which can occur in all cases no sooner than five years from the date of the City's entitlements, if BFI meets all other requirements.

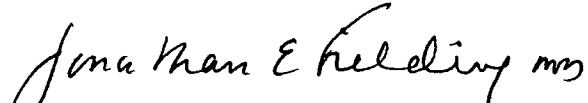
Ted N. Rauh
November 14, 2007
Page 4

Thank you in advance for your consideration and cooperation on this matter. If you have any questions, please contact Lari Sheehan, Deputy Chief Executive Officer at (213) 893-2477, or via e-mail at lsheehan@ceo.lacounty.gov.

Sincerely,



WILLIAM T FUJIOKA
Chief Executive Officer



JONATHAN E. FIELDING, M.D., M.P.H.
Director and Health Officer
Public Health

WTF:JEF
LS:DSP:BK:os

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